



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|------------------------|------------------|
| 10/693,579 | 10/24/2003 | Sebastian Siethoff | 112703-290 | 1083 |
| 29156 | 7590 | 09/12/2005 | EXAMINER | |
| BELL, BOYD & LLOYD LLC P. O. BOX 1135 CHICAGO, IL 60690-1135 | | | LUONG, SHIAN TINH NHAN | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3728 | |

DATE MAILED: 09/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/693,579

Applicant(s)

SIETHOFF ET AL.

Examiner

Shian T. Luong

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Claim Rejections - 35 USC § 112

1. Claims 13-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase “in the shape of a Christmas ornament” is indefinite because there is no definite shape to a Christmas ornament since it comes in a variety of shapes and sizes. In claim 22, merely placing the products in the housing does not prevent the products from falling out of the housing.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the two open ends with two lids removably attached must be shown or the features canceled from the claims. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

Art Unit: 3728

application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1,3,13,14,16,18,22 are rejected under 35 U.S.C. 102(b) as being anticipated by Blachon (US 4,827,114). Blachon discloses a package for holding a plurality of consumable products therein. Each product has a bar code on its package. A housing made out of an integrally formed wrapping material as shown in Figures 5,6 and 13 is constructed with a non-transparent material to obstruct the codes on the products. The housing has at least one code which is readable by the scanner. A portion of the housing is substantially non-transparent due to the scrambling lines printed on the film.

5. Claims 1-4,8-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Gessford et al. (US 6,880,313). Gessford et al. discloses a package for holding a plurality of products therein. Each product has a bar code on its package. A housing made out of an integrally formed

Art Unit: 3728

wrapping material is constructed with a non-transparent, opaque and/or a cover material such as integral film or ribbon 16, ribbon panel 48 or the label shown in Figure 5 to obstruct the codes on the products. The housing has at least one code which is readable by the scanner.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 13-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gessford et al. in view of Official Notice. Gessford et al. discussed on column 1 that it is known to bundle pre-packaged products or articles in multi-packs, each comprising a certain predetermined quantity of articles for distribution. It is also notoriously known in the container art that the bundle pre-packaged products generally include consumable products such as candies, chips, cereals, etc. generally sold in Costco or Sam's Club. Thus, in view of the conventional knowledge, it would have been obvious to provide consumable products in the packages of Gessford et al.

8. Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bezek et al. (D479,991) and/or Kappler et al. (US 4,163,517) in view of Gessford et al. or Blachon. Bezek et al. or Kappler et al. discloses a snack food container with two lids removably covering two openings. Bezek et al. or Kappler et al. fails to show the limitations recited in claims 1,8,13 and 18. But Gessford et al. discloses a package for holding a plurality of products therein. Each

Art Unit: 3728

product has a bar code on its package. A housing made out of an integrally formed wrapping material is constructed with a non-transparent, opaque and/or a cover material such as integral film or ribbon 16, ribbon panel 48 or the label shown in Figure 5 to obstruct the codes on the products. The housing has at least one code which is readable by the scanner. Blachon also discloses a package for holding a plurality of consumable products therein. Each product has a bar code on its package. A housing made out of an integrally formed wrapping material as shown in Figures 5,6 and 13 is constructed with a non-transparent material to obstruct the codes on the products. The housing has at least one code which is readable by the scanner. A portion of the housing is substantially non-transparent due to the scrambling lines printed on the film. It would have been obvious in view of Gessford et al. or Blachon to provide a plurality of packaged articles with bar codes within the containers of Bezek et al. or Kappler et al. for individual sale.

9. Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gessford et al. or Blachon in view of Bezek et al. or Kappler et al. Gessford et al. discloses a package for holding a plurality of products therein. Each product has a bar code on its package. A housing made out of an integrally formed wrapping material is constructed with a non-transparent, opaque and/or a cover material such as integral film or ribbon 16, ribbon panel 48 or the label shown in Figure 5 to obstruct the codes on the products. The housing has at least one code which is readable by the scanner. Blachon also discloses a package for holding a plurality of consumable products therein. Each product has a bar code on its package. A housing made out of an integrally formed wrapping material as shown in Figures 5,6 and 13 is constructed with a non-transparent material to obstruct the codes on the products. The housing has at least one code which is readable by the scanner. A portion of the housing is substantially non-transparent due

Art Unit: 3728

to the scrambling lines printed on the film. Although the container does not have two lids and two openings, Bezek et al. or Kappler et al. discloses a snack food container with two lids removably covering two openings. It would have been obvious in view of Bezek et al. or Kappler et al. to provide a store the packages within a container with removable lids for ease of retrieval.

Conclusion

10. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners, M.P.E.P. 203.08.


If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Erica Miller at (571) 272-4370.

For applicant's convenience, the official FAX number is 571-273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify Examiner Luong of Art Unit 3728 at the top of your cover sheet of any correspondence submitted.

Art Unit: 3728

Inquiries concerning the merits of the examination should be directed to Shian Luong whose telephone number is (571) 272-4557. The examiner can normally be reached on M-H from 7:00am to 4:00pm EST.

STL
September 8, 2005


Primary Examiner
Shian Luong
Art Unit 3728